[Cite as *State v. Norman,* 2011-Ohio-2870.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
		No. 10AP-680
v.	:	(M.C. No. 2010 CRB 002813)
Crystal Norman,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on June 14, 2011

Richard C. Pfeiffer, Jr., City Attorney; *Lara N. Baker*, City Prosecutor, and *Melaine R. Tobias*, for appellee.

Yeura R. Venters, Public Defender, and *Allen V. Adair*, for appellant.

APPEAL from the Franklin County Municipal Court

KLATT, J.

{¶1} Defendant-appellant, Crystal Norman, appeals from a judgment of conviction and sentence entered by the Franklin County Municipal Court. Because appellant's conviction is not against the manifest weight of the evidence, we affirm that judgment.

Facts and Procedural History

{¶2} On February 3, 2010, appellant, who lives in Cleveland, Ohio, traveled to Columbus, Ohio, to take custody of her grandson, Kei'von. Kei'von had been living with appellant's sister, Yvonne Clarke, and her daughter, Petria, for the past eight years.

Appellant arrived in Columbus and contacted the Columbus Police Department seeking assistance to pick up Kei'von. Officers Emanuel Edwards and William Edwards met appellant, and they all drove to Clarke's apartment.

{¶3} When the three arrived at Clarke's apartment, Clarke let them inside and asked the officers for proof that appellant was entitled to have custody of Kei'von. At the time, Kei'von was asleep on Petria's lap. Appellant went over to take Kei'von from Petria, which resulted in a verbal confrontation between appellant and Petria. Petria told appellant that she was a bad mother. Appellant then tried to take Kei'von out of Petria's lap. Both officers saw what appeared to be a tug of war over Kei'von.

{¶4} What happened next is disputed. Petria testified that appellant let go of Kei'von and then hit her in the head. Appellant testified that Petria hit her twice and only then did appellant hit Petria. Clarke did not see any of the punches. Significantly, the two officers only saw appellant hit Petria. As a result, the officers filed two complaints in the trial court alleging that appellant committed an assault in violation of R.C. 2903.13(A) and domestic violence in violation of R.C. 2919.25(A). Appellant entered not guilty pleas to both charges and proceeded to a jury trial.

{¶5} At trial, appellant testified that she hit Petria in self-defense, only after Petria hit her. Petria and the two officers who were at the scene, however, testified that appellant hit Petria first. The jury found appellant not guilty of assault but guilty of domestic violence. The trial court sentenced her accordingly.

{¶6} Appellant appeals and assigns the following error:

> APPELLANT'S CONVICTION FOR DOMESTIC VIOLENCE WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

First Assignment of Error - Manifest Weight of the Evidence

{¶7} Appellant contends that her domestic violence conviction is against the manifest weight of the evidence. We disagree.

{¶8} The weight of the evidence concerns the inclination of the greater amount of credible evidence offered to support one side of the issue rather than the other. *State v. Thompkins,* 78 Ohio St.3d 380, 387, 1997-Ohio-52. When presented with a challenge to the manifest weight of the evidence, an appellate court may not merely substitute its view for that of the trier of fact, but must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses and determine whether in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. Id. at 387. An appellate court should reserve reversal of a conviction as being against the manifest weight of the evidence for only the most " 'exceptional case in which the evidence weighs heavily against the conviction.' " Id.; *State v. Strider-Williams*, 10th Dist. No. 10AP-334, 2010-Ohio-6179, ¶1210 Ohio St.3d 77.

{¶9} In addressing a manifest weight of the evidence argument, we are able to consider the credibility of the witnesses. *State v. Cattledge*, 10th Dist. No. 10AP-105, 2010-Ohio-4953, ¶6. However, in conducting our review, we are guided by the presumption that the jury, or the trial court in a bench trial, " 'is best able to view the witnesses and observe their demeanor, gestures and voice inflections, and use these observations in weighing the credibility of the proffered testimony.' " Id. (quoting *Seasons Coal Co. v. Cleveland* (1984), 10 Ohio St.3d 77, 80). Accordingly, we afford great deference to the trier of fact's determination of witness credibility. *State v. Redman*, 10th Dist. No. 10AP-654, 2011-Ohio-1894, ¶26 (citing *State v. Jennings*, 10th Dist. No. 09AP-

70, 2009-Ohio-6840, ¶55). See also *State v. DeHass* (1967), 10 Ohio St.2d 230, paragraph one of the syllabus (credibility determinations are primarily for the trier of fact).

{¶10} In order to find appellant guilty of domestic violence in this case, the jury had to find beyond a reasonable doubt that appellant knowingly caused or attempted to cause physical harm to a family or household member. R.C. 2919.25(A).

{¶11} Appellant first argues that her conviction is against the manifest weight of the evidence because her testimony that Petria hit her first was more credible than the three other witnesses who testified that appellant hit Petria first. We disagree.

{¶12} A conviction is not against the manifest weight of the evidence because the trier of fact believed the state's version of events over the appellant's version. *State v. Webb*, 10th Dist. No. 10AP-189, 2010-Ohio-5208, ¶16; *Strider-Williams* at ¶13. Here, the state's version of events refutes appellant's claim that she hit Petria in self-defense. The jury was free to disbelieve appellant's version of events and believe the state's version of events. That decision was within the province of the jury. *State v. Williams,* 10th Dist. No. 08AP-719, 2009-Ohio-3237, ¶18-19 (jury's decision to reject claim of self-defense and believe prosecution's version of events not against manifest weight of the evidence); *Webb* at ¶17. Given the conflicting testimony regarding who hit who first, this is not the exceptional case in which the evidence weighs heavily against the conviction.

{¶13} Appellant also argues that the jury's inconsistent verdicts indicate that the jury lost its way.[1] We disagree.

[1] While appellant's brief also takes issue with the trial court's jury instructions, she has not set forth an assignment of error regarding those instructions. Therefore, we will not address the instructions. *Ellinger v. Ho*, 10th Dist. No. 08AP-1079, 2010-Ohio-553, ¶70 (noting that this court rules on assignments of error only and will not address mere arguments). We do note, however, that appellant's counsel did not object to the instructions she now alleges were erroneous.

{¶14} The state concedes that the jury's verdicts in regards to the different counts were not consistent. The jury found appellant not guilty of assault but guilty of domestic violence. In order to commit domestic violence, appellant would have necessarily committed an assault. However, such inconsistency does not warrant the reversal of a conviction. *State v. Kelley*, 5th Dist. No. 2006CA00371, 2007-Ohio-6517, ¶104 (citing *State v. Hicks* (1989), 43 Ohio St.3d 72, 78) (noting that inconsistent verdicts on different counts do not justify overturning a verdict of guilt); *State v. Gravelle*, 6th Dist. No. H-07-010, 2009-Ohio-1533, ¶76-77 (rejecting argument that inconsistent verdicts would render conviction against manifest weight of the evidence); *State v. King*, 5th Dist. No. 09 CA 000019, 2010-Ohio-2402, ¶32-34 (same).

{¶15} Appellant's conviction is not against the manifest weight of the evidence. Accordingly, we overrule her lone assignment of error and affirm the judgment of the Franklin County Municipal Court.

Judgment affirmed.

TYACK and CONNOR, JJ., concur.